

Regular Session, 2009

SENATE BILL NO. 132

BY SENATOR DORSEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Provides relative to the crime of first degree murder. (gov sig)

AN ACT

To enact R.S. 14:30(A)(10) and Code of Criminal Procedure Art. 905.4(A)(13), relative to the crime of first degree murder and aggravated circumstances; to provide for elements of such crime; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:30(A)(10) is hereby enacted to read as follows:

§30. First degree murder

A. First degree murder is the killing of a human being:

* * *

(10) When the offender has a specific intent to kill or inflict great bodily harm and the offender has previously acted with a specific intent to kill or inflict great bodily harm that resulted in the killing of one or more persons.

* * *

Section 2. Code of Criminal Procedure Art. 905.4(A)(13) is hereby enacted to read as follows:

Art. 905.4. Aggravating circumstances

A. The following shall be considered aggravating circumstances:

* * *

(13) The offender has knowingly killed two or more persons in a series of separate incidents.

* * *

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

DIGEST

Dorsey (SB 132)

Present law defines first degree murder as the killing of a human being:

- (1) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the perpetration or attempted perpetration of aggravated kidnapping, second degree kidnapping, aggravated escape, aggravated arson, aggravated rape, forcible rape, aggravated burglary, armed robbery, assault by drive-by shooting, first degree robbery, second degree robbery, simple robbery, terrorism, cruelty to juveniles, or second degree cruelty to juveniles.
- (2) When the offender has a specific intent to kill or to inflict great bodily harm upon a fireman, peace officer, or civilian employee of the Louisiana State Police Crime Laboratory or any other forensic laboratory engaged in the performance of his lawful duties, or when the specific intent to kill or to inflict great bodily harm is directly related to the victim's status as a fireman, peace officer, or civilian employee.
- (3) When the offender has a specific intent to kill or to inflict great bodily harm upon more than one person.
- (4) When the offender has specific intent to kill or inflict great bodily harm and has offered, has been offered, has given, or has received anything of value for the killing.
- (5) When the offender has the specific intent to kill or to inflict great bodily harm upon a victim who is under the age of twelve or sixty-five years of age or older.
- (6) When the offender has the specific intent to kill or to inflict great bodily harm while engaged in the distribution, exchange, sale, or purchase, or any attempt thereof, of a controlled dangerous substance listed in Schedules I, II, III, IV, or V of the Uniform Controlled Dangerous Substances Law.
- (7) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the activities prohibited by R.S. 14:107.1(C)(1).
- (8) When the offender has specific intent to kill or to inflict great bodily harm and there

has been issued by a judge or magistrate any lawful order prohibiting contact between the offender and the victim in response to threats of physical violence or harm which was served on the offender and is in effect at the time of the homicide.

- (9) When the offender has specific intent to kill or to inflict great bodily harm upon a victim who was a witness to a crime or was a member of the immediate family of a witness to a crime committed on a prior occasion and:
- (a) The killing was committed for the purpose of preventing or influencing the victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced; or
 - (b) The killing was committed for the purpose of exacting retribution for the victim's prior testimony.

Proposed law retains present law definition of first degree murder and also defines first degree murder as when the offender has a specific intent to kill or inflict great bodily harm and the offender has previously acted with a specific intent to kill or inflict great bodily harm that resulted in the killing of one or more persons.

Present law considers aggravated circumstances as:

- (1) The offender was engaged in the perpetration or attempted perpetration of aggravated rape, forcible rape, aggravated kidnapping, second degree kidnapping, aggravated burglary, aggravated arson, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism.
- (2) The victim was a fireman or peace officer engaged in his lawful duties.
- (3) The offender has been previously convicted of an unrelated murder, aggravated rape, aggravated burglary, aggravated arson, aggravated escape, armed robbery, or aggravated kidnapping.
- (4) The offender knowingly created a risk of death or great bodily harm to more than one person.
- (5) The offender offered or has been offered or has given or received anything of value for the commission of the offense.
- (6) The offender at the time of the commission of the offense was imprisoned after sentence for the commission of an unrelated forcible felony.
- (7) The offense was committed in an especially heinous, atrocious or cruel manner.
- (8) The victim was a witness in a prosecution against the defendant, gave material assistance to the state in any investigation or prosecution of the defendant, or was an eye witness to a crime alleged to have been committed by the defendant or possessed other material evidence against the defendant.
- (9) The victim was a correctional officer or any employee of the Department of Public Safety and Corrections who, in the normal course of his employment was required to come in close contact with persons incarcerated in a state prison facility, and the victim was engaged in his lawful duties at the time of the offense.
- (10) The victim was under the age of twelve years or sixty-five years of age or older.
- (11) The offender was engaged in the distribution, exchange, sale, or purchase, or any attempt thereof, of a controlled dangerous substance listed in Schedule I, II, III, IV, or V of the Uniform Controlled Dangerous Substances Law.

(12) The offender was engaged in the activities prohibited by R.S. 14:107.1(C)(1).

Proposed law retains present law considerations of aggravated circumstances and also considers aggravated circumstances as when the offender has knowingly killed two or more persons in a series of separate incidents.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 14:30(A)(10) and C.Cr.P. 905.4(A)(13))